

DIRECT TESTIMONY OF SUSAN SPEAR

ON BEHALF OF WORLDCOM, INC.

WorldCom Ex. 1.0

ICC DOCKET NO. 00-0596

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Witness

Date 1-16-02 Reporter CB

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5

6 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

7 A. My name is Susan Spear, and my business address is 5 International Drive, Rye Brook,
8 New York, 10573.
9

10 **Q. PLEASE DESCRIBE YOUR BACKGROUND AND EXPERIENCE.**

11 A. I've been employed by WorldCom and its predecessor companies for approximately ten
12 years. Since January 2000, I've held the position of Senior Manger, Consumer Affairs
13 and Quality. In this role, I am responsible for identifying, developing and ensuring
14 implementation of quality improvements in the Company's sales and services practices. I
15 am also responsible for making sure that WorldCom's business practices are in
16 compliance with state and federal requirements for a twelve state region, including
17 Illinois. Prior to my present position, I worked for eight years in MCI's Law and Public
18 Policy group as Senior Manager, Government Relations. In that role I was responsible
19 for advocating the Company's position on state legislative and regulatory matters in
20 seven states. During my career I have testified at numerous state regulatory proceedings
21 and legislative hearings. With respect to the instant proceeding, I participated in several
22 workshops where proposed changes to the Part 730 service quality rules were discussed.
23
24
25

26 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

27 A. The purpose of this testimony is to explain why WorldCom believes the proposed version
28 of Part 730 advanced should be changed to recognize the emerging competitive nature of
29 local telecommunications service in Illinois, and to offer specific recommended changes.
30 Staff's proposed version of Part 730 is more conducive to a monopoly environment, and
31 does not reflect the Commission's and the General Assembly's intention to encourage
32 local service competition. WorldCom believes the amendments it proposes be made to
33 Part 730 better supports the goal of promoting competition, and will not impact the
34 quality of service experienced by end user customers. My testimony focuses on the first
35 area of non-consensus identified by Staff witness McClerren in his testimony. I also
36 address one item, abandon calls, that was raised in Staff witness Jackson's testimony.

37

38 WorldCom recognizes that the Staff wants to ensure a basic level of service for all
39 Illinois telecommunications service consumers. While Staff's goal is admirable,
40 WorldCom disagrees that the way to achieve that goal is by imposing exactly the same
41 requirements on all local service providers. Ensuring a certain level of service for end
42 users does not necessarily require that the same rules apply to all carriers. The Part 730
43 rules should recognize that there are fundamental differences in the way companies
44 provide services, and that there are ways to recognize those differences without having an
45 impact on the quality of service experienced by customers.

46

47 As it stands, the proposed changes to Part 730 simply do not recognize that many
48 Competitive Local Exchange Carriers ("CLECs") are unable to measure and report all the

49 standards required in these proposed rules. The proposed rules hold companies
50 responsible for corrective actions over business practices and networks that are not in
51 their control. The current draft also allows penalties to be imposed on companies that
52 miss standards that are not in their control. Therefore, Staff's proposed rule would
53 impose requirements on CLECs that are impossible to meet and would create a barrier to
54 entry for new CLECs who are evaluating whether to enter the market.

55

56 **Q. WHAT SPECIFIC RECOMMENDATIONS DO YOU SUPPORT TO ADDRESS**
57 **YOUR CONCERNS?**

58 A. There are two aspects of WorldCom's recommendations that together will address these
59 concerns. The first is to expand the waiver section, and the second is to add exemptions
60 to specific requirements where it is appropriate. The waiver and exemption provisions
61 WorldCom is recommending would apply to companies that provision their services
62 based on the network platform or network elements of the Incumbent Local Exchange
63 Carrier ("ILEC"). Because the ILEC must meet the Part 730 standards, and CLECs
64 utilize Unbundled Network Elements ("UNEs") from the ILEC's network to provide
65 service to their end users, CLECs too will meet the standards, and the quality of service
66 will be assured for all Illinois consumers. CLECs often have no way to improve on the
67 ILEC's provisioning, but under the proposed rules CLECs will be subject to penalties for
68 missing such standards. Also, under the proposed rules a CLEC must publicly report that
69 it has missed standards that are outside of its control. This would create an undeserved
70 negative reflection on a company trying to compete in the market. It could also create a

→ Included under the New York waiver provision cited above, MCI WorldCom petitioned for and received, on December 14, 2001 a waiver of the New York reporting requirements. Those requirements are similar to the requirements contained in Part 730. That waiver request was unopposed and, in fact, was supported by the ICC Docket 00-0596 New York Attorney General. Copies of the Testimony of Susan Spear December 19, 2001 waiver official letter and the WorldCom Ex. 1.0 NY Attorney General's comments in support of the Page 4 of 10 waiver petition are appended to this testimony as attachments 1 and 2, respectively.

71 inaccurate impression for consumers who will depend on this information in making their
72 decision among service providers.

73 **Q. WHAT SPECIFIC LANGUAGE DO YOU RECOMMEND BE ADDED TO THE**
74 **WAIVER SECTION OF PART 730?**

75 **A.** I recommend a new subsection (d) be added following Section 730.110(c) that reads as
76 follows: "or (d) A service provider can demonstrate that its services are provided through
77 the resale of another carrier's tariffed services or through the purchase of another
78 carrier's Unbundled Network Elements ("UNEs") over which it has no direct control."

79
80 The aforementioned language is based on New York's service quality rules. The
81 Michigan Public Service Commission also included a similar provision in its notice for
82 comment regarding local service quality rules. The burden of proof is on the company
83 seeking the waiver to show it has met this criteria. It is in the Commission's discretion
84 whether or not to grant such a waiver. By adding the above language as a waiver reason,
85 it appropriately recognizes the structure of the telecommunications industry and gives
86 companies the ability to petition for a waiver on that basis. Other state Commissions
87 whose intent is to encourage local service competition, such as Michigan and New York
88 have included such waiver provisions in their service quality rules. [INSERT]

89
90 **Q. WHAT SPECIFIC EXEMPTIONS DO YOU BELIEVE ARE APPROPRIATE?**

91 **A.** WorldCom's second recommendation is to include exemptions to the sections of Part 730
92 where the CLEC cannot control compliance with the specific standard. Again, as long as
93 the LEC complies as required by the rules, the CLEC will also be in compliance.

WorldCom recommends the following language be added to Section 730.100
“Application of Part”:customers, “except to the extent that an Incumbent Local
Exchange Carrier provides a Competitive Local Exchange Carrier with Unbundled
Network Elements and combinations of such elements which are relied upon by the
CLEC to provide service to its retail customers. In cases where the provision of UNEs
and combinations of UNEs by the ILEC to the CLEC causes the CLEC to violate these
rules, the CLEC will not be considered to be in violation of the rules since the cause of
the CLEC’s non-compliance is outside of the CLEC’s control. In addition, to the extent a
carrier utilizes the services or UNEs of another carrier for which the carrier providing the
services or UNEs must file reports under these rules, the carrier purchasing those services
or UNEs can fulfill its reporting obligations by referencing the underlying carrier’s
report(s).”

Q. WHICH SECTIONS SHOULD THIS EXEMPTION APPLY TO?

A. The first section where an exemption is appropriate is for certain of the reporting
requirements in Section 730.115. The quarterly reports required by this section include
items that some CLECs cannot measure and/or cannot control. For example, WorldCom
uses the incumbent LEC’s operator services and has no way to measure their answering
time. Therefore, WorldCom also has no way to report it. In addition, WorldCom would
be required to report on the following standards which it does not control: lines out of
service >24 hours, trouble reports per 100 access lines, repeat trouble reports, installation
trouble reports, missed repair appointments, and missed installation appointments.
WorldCom should not be required to publicly report these items for which it has no

control, otherwise any missed standards reflect negatively and unfairly on WorldCom.
For these reasons, WorldCom should be exempt from reporting on those standards.

Similarly, several sections regarding Operator Offices Answering Time (730.510(a)(2), Central Office Administrative Requirements (730.515a), and Interruptions of Service (730.535(b)(3) require a company to take corrective action when standards have been missed. For the above listed items, CLECs utilizing UNEs have no way to take corrective actions on the underlying ILEC's network or business practices. In addition, the rules allow civil penalties to be imposed for failure to meet the above requirements as well as those regarding Trouble Reports (730.545). This section requires WorldCom to remain below a specific number of trouble reports and a specific percentage of repeat trouble reports and installation trouble reports. It also requires repair appointments to be kept, and at least 24 hours notice of a cancellation. Trouble reports are based on the underlying ILEC network, and the ILEC is responsible for keeping repair appointments.

Therefore exemptions are appropriate in these situations. If the ILEC has missed the standard, it will be required to take corrective action, and then the CLEC will also be in compliance. There is simply nothing to be gained by applying this rule to CLECs that utilize the ILECs underlying network. Specifically:

Section 730.510. This has been explained in the above comments regarding reporting requirements.

140 Section 730.515. This standard ignores situations in which CLECs that provide mass
141 market services utilizing combinations of UNEs including the UNE Platform have no
142 control over the standard that is being measured. Since the ILEC provides the switching
143 functions to CLECs that provide services via the UNE Platform, the CLEC has no control
144 over the Central Office Administrative Requirements that dial tone must be provided
145 within 3 seconds on 95% of calls. WorldCom cannot record this information where it
146 relies on unbundled local switching of the ILEC to provide service. In those situations, if
147 the ILEC is meeting the standard then the rule should recognize that CLECs using those
148 facilities presumptively meet the standard as well since the CLECs customers will
149 automatically receive the minimum service standard.

150
151 According to the proposed rule, if WorldCom falls below this standard it must take
152 corrective action and report to the Commission. Monthly records must be kept. This is a
153 case where WorldCom is wholly dependent on the ILEC where it provides services to
154 customers via the UNE Platform.

155
156 It is impossible for CLECs using an ILEC's unbundled local switching to measure for
157 this standard and unnecessary from an end user's standpoint to have this standard apply
158 to CLECs. For these reasons, the rule is flawed.

159
160 Section 730.535 and 545. WorldCom finds most objectionable proposed rules that would
161 penalize CLECs who must rely on ILECs for maintenance and repair of UNE facilities
162 when such maintenance and repairs are not within the control of the CLEC. The rule

163 would leave within the hands of the CLEC's most direct competitor the ability to
164 determine whether the CLEC can or cannot comply with the Commission's rule. If the
165 ILEC is not meeting the requirements for its own retail customers, what incentive does it
166 have to ensure that the CLEC meets the requirement for its end user customers? This is
167 not only unfair, it represents a barrier to entry.

168
169 Section 730.535. The interruptions in service that this section addresses are within the
170 control of the entity that owns and maintains the network facilities that are used to
171 provide service. Once again, this rule section contains proposed changes that fail to
172 recognize the fact that CLECs that provide mass market services utilizing combinations
173 of UNEs including the UNE Platform will have no control over the standard that is being
174 measured. That is true because the combinations of network elements that a CLEC will
175 use to provide service will be entirely or substantially outside of its control and
176 exclusively or nearly exclusively within the control of the underlying ILEC.

177
178 Further, 730.535(b)(3) would require WorldCom to file a report if it fails to meet the
179 standard in a certain month, and include a "statement of the reasons for such failure."
180 However, without specific information from the ILEC, WorldCom does not have access
181 to this information.

182
183 Section 730.545. The same concerns that were expressed with respect to network
184 interruptions (Section 730.535) apply to this section. The trouble reports are simply an

185 outgrowth of the network interruptions section and therefore the changes that WorldCom
186 recommends with respect to that section should be reflected here as well.

187
188 Section 730.550. WorldCom submits that the Exchange Isolation Verbal notification
189 within 24 hours to Commission of major outages, written report within 30 days should
190 only apply to ILECs. ILECs will have the detailed information and CLECs who rely on
191 ILEC facilities would only be providing redundant notices. CLECs would have to rely on
192 the ILEC's report as to the cause of major outages which do not involve CLEC owned
193 facilities. If this proposed addition stays, it should be modified so that ILECs are required
194 to notify both the Commission and CLECs that rely on ILEC facilities of outages so
195 CLECs can be better prepared to respond to their end users customers.

196
197 **Q. DO YOU HAVE ANY FURTHER RECOMMENDATIONS?**

198 **A.** Yes. I recommend that the requirement to report abandoned calls (Section
199 730.510(b)(3)A,B,D) be deleted. Abandoned calls are not indicative of any measure of
200 service quality and therefore their reporting serves no consumer benefit. The relevant
201 measure for consumers is answer time, which is required by the rules. Customers
202 abandon calls for all sorts of reasons that have nothing to do with the quality of service,
203 for example: they receive another call on call waiting, the baby starts crying, the dinner is
204 burning, etc. If the implication is that hold times are too long so they hang up, that will be
205 clearly indicated in the answer time reports. A requirement to report abandoned calls is
206 an unnecessary burden on companies because it provides no additional benefit to
207 consumers. In addition, it could be misinterpreted as a measure of service quality.

208

209 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

210 **A. Yes it does.**

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

Internet Address: <http://www.dps.state.ny.us>ICC Docket 00-0596
WorldCom Ex 10
Attachment 1

ENY'D DEC 28 2001

PUBLIC SERVICE COMMISSION

MAUREEN O. HELMER

Chairman

THOMAS J. DUNLEAVY

JAMES D. BENNETT

LEONARD A. WEISS

NEAL N. GALVIN



LAWRENCE G. MALONE

General Counsel

JANET HAND DEIXLER

Secretary

December 19, 2001

Mr. Curtis L. Groves
Senior Attorney
Worldcom
200 Park Avenue
New York, NY 10166

Dear Mr. Groves:

Section 603.4(f) of the Commission's Rules and Regulations gives the Director of the Office of Communications authority to grant exemptions from local service quality reporting requirements on a case-by-case basis to carriers who can demonstrate that they provide local services through the resale of another carrier's tariffed services or via another service provider's Unbundled Network Elements (UNEs) over which they have no direct control.

MCImetro Access Transmission Services (MCImetro) currently serves more than 500,000 access lines in New York. According to the Commission's local exchange service standards, 16NYCRR §603.4(c)(2), the company would, therefore, be required to report monthly performance results for all of the service quality metrics contained in §603.3 of the standards. In your letter dated August 21, 2001 you requested a waiver, pursuant to 16NYCRR §603.4(f), of the reporting requirements for six metrics: Percent Out-of-Service Over 24 Hours, Percent Service Affecting Over 48 Hours, Percent Initial Basic Local Exchange Service Line Installations Completed Within Five Days, Percent Installation Commitments Missed, Percent Final Trunk Group Blockages, and Operator Assistance Answer Time.

Mr. Curtis L. Groves
December 19, 2001
Page 2

Based on the information contained in your letter, you have established that the vast majority of MCI's access lines are served either by UNE-P or by resale of an underlying provider's facilities, over which MCIMetro has no direct control. Therefore, this letter grants you a waiver from routine reporting of the above-mentioned service quality metrics. If in the future you provide more than 500,000 access lines over your own network facilities, you will be required to report all requisite monthly service quality information.

Notwithstanding the waivers granted herein, attaining 500,000 access lines obligates MCIMetro to report its business office and repair office answer time performance per 16NYCRR §603.3(f)-(g), as well as Customer Trouble Report Rate (CTRR) performance per 16NYCRR §603.3(b). In addition, the Commission retains the right to investigate all aspects of your company's service quality based on circumstances that may arise in the future, such as the receipt of excessive complaints by the Commission.

With respect to CTRR, some modification of your reporting practice is in order. CTRR is a measure of network integrity, in that it measures how well a company's network facilities are working. Heretofore, MCIMetro has been reporting monthly CTRR results for all local exchange access lines, regardless of whether the lines were served by UNE-P, resale, or by MCIMetro's own facilities. However, as you point out in your waiver request, the underlying carrier (Verizon) is responsible for the maintenance of resale lines and the network elements provided via UNE-P. Furthermore, it is duplicative for MCIMetro to report the access line counts and associated trouble reports on UNE-P and resale access lines, since Verizon includes these same line counts and trouble reports in its own end user CTRR data, as well as in the Carrier-to-Carrier monthly reports. Accordingly, beginning with January 2002 results, the company should report its monthly CTRR results for facilities-based access lines only.

Sincerely,

Allan H. Bausback

Allan H. Bausback
Director
Office of Communications

ENT'D OCT 29 2001



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
120 BROADWAY, NEW YORK, NEW YORK 10271

ELIOT SPITZER
Attorney General

SQ Waiver

ice Docket 00-0596
WorldCom Ex. 1.0
Attachment 2

MARY ELLEN BURNS
Assistant Attorney General in Charge
Bureau of Telecommunications and Energy

KEITH H. GORDON
Assistant Attorney General
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October 25, 2001

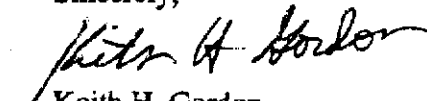
Honorable Janet H. Deixler
Secretary
NYS Public Service Commission
3 Empire State Plaza
Albany, NY 12223

Re: SAPA # PSC-37-01-00003-P, In the Matter of the Request of
MCI Metro Access Transmission Services for an Exemption from the End
User Service Quality Reporting Requirements of 16 NYCRR § 603.3.

Dear Secretary Deixler:

Pursuant to the Commission's Notice Inviting Comments published in the September 12, 2001 State Register, please find enclosed 15 copies of the Attorney General's comments in support of the above exemption request.

Sincerely,


Keith H. Gordon
Assistant Attorney General

cc: active parties in Case 97-C-0139
Hon. Jaclyn A. Brilling, ALJ

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

-----X
In the Matter of the Request of
MCI Metro Access Transmission : SAPA # PSC-37-01-00003-P
Services for an Exemption from
the End User Service Quality :
Reporting Requirements of
16 NYCRR § 603.3 :
-----X

COMMENTS
OF
ELIOT SPITZER
ATTORNEY GENERAL
OF THE
STATE OF NEW YORK

Mary Ellen Burns
Assistant Attorney General in Charge
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October 25, 2001

BACKGROUND

On October 6, 2000, the New York State Public Service Commission ("PSC" or "Commission") adopted a substantially revised set of standards establishing expected levels of service quality that local carriers serving New York customers are required to meet.¹ The Commission revised the service standards (which date back to 1977) in large part to take into account the changed circumstances brought about by the development of local service competition.

In summary, the new standards require that "small" carriers serving up to 500,000 customer lines in New York² report only their monthly Customer Trouble Report Rate ("CTRR").³ Large carriers (those serving more than 500,000 lines),⁴ are required to report a number of additional monthly service performance measures concerning speed of repair, installation, operator services and business office accessibility.⁵ However, even carriers serving over 500,000 customer lines may, pursuant to 16 NYCRR § 603.4(f),

¹ Case 97-C-0139 - *Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies, Memorandum and Resolution Adopting Revision of Parts 602, 603, and Section 644.2 of 16 NYCRR*, issued and effective October 6, 2000.

² See, 16 NYCRR § 603.4(c)(1).

³ The CTRR measures how many customers served by each central office report service problems to the carrier each month. This data indicates the reliability of the carrier's network facilities. 16 NYCRR §§ 602.1(i) and 603.3(b)(1)-(4). Customer trouble reports are classified as either complaints that the line is out of service (either no dial tone is available or conversation cannot be understood) or affecting service (such as slow dial tone, busy circuits, or noisy connections).

⁴ See, 16 NYCRR § 603.4(c)(2).

⁵ The specific measurements and standards are set forth at 16 NYCRR § 603.3.

request an exemption from any or all of the reporting requirements of Section 603.4, if that provider can demonstrate that the services are provided through resale of another service provider's tariffed services or purchase of another service provider's Unbundled Network Elements (UNEs) over which it has no direct control.

On August 21, 2001, MCI Metro Access Transmission Services ("MCI") requested, pursuant to 16 NYCRR § 603.4(f), that the Director of the PSC's Office of Communications grant a waiver of six specific reporting requirements.⁶ MCI acknowledges that it serves "approximately 519,400 access lines" in New York, but asserts that the vast majority are residential lines provided through lease of UNE-Platform ("UNE-P") and total resale from Verizon-NY.⁷ In addition, MCI states that it also leases operator services from Verizon through UNE-P.

By State Register Notice published September 12, 2001, the Commission requested that interested parties comment on MCI's exemption request by October 29, 2001. The Attorney General's Office, which has been an active party in the lengthy multi-party collaborative process

⁶ MCI seeks exemption from reporting Percent Out-Of-Service Over 24 Hours (§ 603.3(c)), Percent Service Affecting Over 48 Hours (§ 603.3(d)), Percent Initial Basic Local Exchange Service Line Installations Completed Within Five Days (§ 603.3(e)), Percent Installation Commitments Missed (§ 603.3(f)), Percent Final Trunk Group Blockages (§ 603.3(g)), and Operator Assistance Answer Time (§ 603.3(j)).

⁷ The Telecommunication Act of 1996 recognizes that multiple business strategies are available to competitive providers seeking to enter the local service market. Some resell the incumbent provider's wholesale bundled service, and merely rebrand the incumbent's service without providing any facilities of their own. A variation of the resale option, called UNE-P involves leasing a preset package of network elements from the incumbent. Other competing providers select from a menu of UNEs leased by the incumbent, and combine these with facilities of their own or elements leased from other facilities-based network providers. Another alternative is for a competitor to lease only the loop connecting a customer to the incumbent's central office, and provide all other facilities and services itself. Still others build entire facilities-based competing networks of their own, and connect directly with the customer without relying on the incumbent's facilities at all.

which produced the revised end user service standards ultimately adopted on October 6, 2000, does not oppose MCI's exemption request, for the reasons stated below.

SUMMARY OF ATTORNEY GENERAL'S COMMENTS

When the Commission revised the end user telephone service quality standards a year ago, one of its purposes was to eliminate unnecessary obstacles to market entry by new local service competitors. To effect this goal, the PSC provided that large providers relying on UNE-P and/or resale may seek an exemption from reporting performance standards over which they exert no control. MCI's exemption request meets the Commission's criteria for such an exemption because most of its more than 500,000 customer lines are provisioned using UNE-P or resale, with a far smaller number provided using MCI's own facilities. Thus, MCI has no control over the installation, maintenance and repair of the facilities used to serve its UNE-P and resale customers. Because the important regulatory oversight function of end user customer service quality reporting would still be met by the continued reporting of installation, maintenance and repair performance by the underlying provider from which MCI leases facilities that serve its UNE-P and resale customers, the Commission should grant MCI's exemption request. However, once MCI, including all its affiliates, serves over 500,000 customer lines using its own facilities, rather than UNE-P and/or resale, it should be required to comply with the large company service performance reporting requirements of Part 603 with regard to such facilities-based customer lines.

ARGUMENT

I. The Commission Should Grant MCI's Exemption Request.

The Attorney General's Office has long advocated for strong enforcement by the

Commission of end user service standards to ensure that customers receive the service for which they are paying and which a modern economy and society require of its telecommunications systems. The Commission depends upon all providers' reported service quality under Parts 602 and 603 to keep abreast of what service levels customers are receiving, so that remedial action can be taken in a timely manner where appropriate. Therefore, waivers and exemptions from the reporting requirements should be closely examined to ensure that end user customers will remain adequately protected if a waiver is granted.

The Attorney General also agrees with the Commission's finding that "the purpose of the service standards is not to penalize or otherwise burden service providers, [but] rather to protect service providers' end users from unacceptably poor service."⁸ The Commission revised Part 603 a year ago "to protect against deterioration in the current level of telephone service quality, streamline existing rules, and reduce regulatory burdens that may hinder the development of competition in the local exchange market."⁹

In revising Parts 602 and 603, the Commission understood:

that service providers, especially resellers and UNE-P providers, may not be responsible for any standards over which they exert no control. In these cases carriers may request waivers of relevant portions of the rule from the Director of the Office of Communications.¹⁰

Facilities and services which are merely leased from another provider (usually the incumbent) are maintained by the lessor, and the leasing competitive provider has no control over the quality of

⁸ Case 97-C-0139 - *Memorandum and Resolution Adopting Revision*, *supra*, p. 7.

⁹ *Ibid*, p. 1.

¹⁰ *Ibid*, p. 7.

the leased services. For example, a UNE-P competitor leases from the incumbent the loop that connects a customer to the telephone network, but the incumbent lessor is solely responsible for keeping the loop in good repair and for remedying service problems relating to the loop when they arise. All that the lessee provider does is relay the end user customers' repair requests to the incumbent lessor, which, as owner of the facilities in question, sends its employees to make the repair.

The Commission, in revising Part 603, required that the incumbent owner of the facilities which serve the end user customers would not be exempted from the end user service measurements. Thus, the incumbent lessor of the UNE-P/resale facilities must still report to the PSC each end user customer's repair request, in its CTRR and, if the incumbent lessor serves more than 500,000 lines, it must also report the its responsive repair performance.¹¹ The requirements of 16 NYCRR § 603 require the lessor provider to report repair performance, depending on the nature of the service problem, as either percent of out of service repairs not completed within 24 hours ("OOS>24") or percent of service affecting repairs not completed within 48 hours ("SA>48"). The UNE-P provider's end user customer's repair request is counted in the CTRR performance report filed by both the incumbent lessor and the lessee provider.¹² Even if a waiver is granted to exempt the UNE-P lessee provider from reporting

¹¹ See, *Telecommunications Service Quality Uniform Measurement Guidelines*, which are appended to Parts 602 and 603 as revised and adopted September 20, 2000, pp. 5-6, 10-16. These guidelines are promulgated by the Director of the Office of Communications pursuant to 16 NYCRR § 603.4(a). MCI leases the vast majority of its UNE-P and resale lines from either Verizon-NY or Rochester Telephone, both of which are classified as large companies and are thus required to report their performance under all of the Part 603 standards.

¹² *Ibid*, p. 5.

OOS>24 and SA>48 repair performance, the incumbent lessor (which maintains the loop and employs the repair crew) must still report its OOS>24 and SA>48 repair performance under Part 603.¹³ Thus, end user customers' repair service quality will be protected by the Commission's oversight role if the incumbent lessor's performance is inadequate.

In the specific circumstances of MCI's exemption request, the vast majority of MCI's 519,400 customer lines are served through UNE-P (encompassing nearly all of the residential customers). MCI's customer line counts also include a very small number of resale lines.¹⁴ MCI's facilities-based customer lines do not currently approach the 500,000 level established to distinguish between small and large providers. Thus, MCI clearly meets the intended purpose of the exemption provision in § 603.4(f). MCI has no power to affect the levels of such service its customers receive with respect to installation, maintenance and repair of facilities and operator services that it does not control. Nothing would be gained, nor would end users be further protected, if a UNE-P service provider, such as MCI, were required to report repair, installation, trunk blockage, or operator responsiveness performance, where the incumbent lessor of the facilities is responsible for such performance and must report its own performance as measured by these Part 603 standards.

MCI has not sought a blanket exemption of all applicable service performance reporting. The exemption request does not extend to the requirement that MCI report CTRR, business

¹³ Because the incumbent lessor (Verizon-NY) serves over 500,000 customer lines, it is classified as a large company under the Part 603 and must report its repair and other categories of service quality performance to the PSC in addition to CTRR. *Ibid*, pp. 10, 13.

¹⁴ Due to the commercially sensitive nature of customer data, the exact figures have been treated by MCI as trade secrets, and thus are not specified in this public document.

office responsiveness and repair office responsiveness. This is appropriate, since the CTRR reporting requirement applies to all providers, regardless of the number of lines they serve.¹⁵ The PSC requires all local service providers to report their CTRR: "[b]ecause it involves the integrity of the network itself, CTRR is the only metric that the Commission has to monitor on a regular basis in order to protect the public interest."¹⁶ Since some trouble reports may be caused by parts of MCI's network that are not leased from an incumbent provider, the PSC requires regular reporting of UNE-P providers' CTRR performance.

Also, it is appropriate that MCI continue to report its business/repair office accessibility (measured by the speed in which customer calls are answered by the provider's staff). End user customers must be provided adequate access to MCI's call centers in order to report service or billing problems to MCI, even if the dispatching of repair crews is ultimately handled by another provider.

II. The Reporting Exemption Should Be Limited To UNE and Resale Lines.

MCIMetro is one of a number of WorldCom subsidiaries providing local service to New York customers. While the bulk of MCIMetro's business serves residential customers using UNE-P, its affiliates Brooks Fiber and MFS Fiber are facilities-based providers which serve medium and large business customers for the most part. Currently, each WorldCom subsidiary

¹⁵ See, 16 NYCRR §§ 603.4(c)(1) and (2); *Uniform Measurement Guidelines*, *supra*, p. 2. "In the event that the Commission is compelled to investigate a reseller's or [UNE-P] CLEC's service quality problems, the [competing] service provider would be able to present a case that any poor performance was the fault of an underlying carrier" if that was the case." October 6, 2000 Order, *supra*, p. 7.

¹⁶ *Ibid*, p. 9.

operating in New York reports its service quality performance independently, based solely on each subsidiary's individual line count.

The end user service quality reporting requirements and standards are essential to the PSC's ability to monitor the quality of service customers receive. To ensure that end user customers receive service adequate to protect their health, safety and economic well being, the PSC should narrowly apply the customer line count reporting requirements. Thus, the Commission should require that MCI and its affiliated service providers Brooks Fiber and MFS to meet all of the large company reporting requirements once the combined entities serve 500,000 New York facilities-based customer lines in the aggregate (with appropriate exemption for resale and UNE-P lines as described above).

While each such WorldCom subsidiary is separately certificated in New York, the purpose and function of the end user service quality standards ought not to be frustrated through the device of dividing customers among a number of affiliated companies. Otherwise, providers would be encouraged to form separate subsidiaries whenever they approached the 500,000 facilities-based line scale, to avoid the cost of measuring and reporting the full range of service standards applicable to large providers. Such evasion of the end user reporting and measurement requirements of 16 NYCRR §§ 603/604 would be contrary to the public interest.


CONCLUSION

For the reasons stated herein, the Attorney General does not oppose MCI's request for exemption.

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Respectfully submitted,

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